

TUSA P.C.

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January 4, 2011

BY ECF FILING AND HAND DELIVERY

Honorable Arthur D. Spatt
United States District Court
For the Eastern District of New York
100 Federal Plaza
P.O. Box 9014
Central Islip, NY 11722-9014

Re: Gunther v. Capital One, N.A., Civil Action No. 09-2966-ADS-AKT

Dear Judge Spatt:

Enclosed please find the response of Class Counsel, Joseph Tusa, Esq. and Tusa P.C. to the Court's Order to Show Cause entered in the referenced action on December 18, 2010, and provided to the Court in advance of the January 5, 2011 hearing. *See* Docket Nos. 65, 66. Enclosed are the following documents:

1. Class Counsel's Response to Order to Show Cause (filed under seal);
2. Declaration of Joseph S. Tusa in Response to Order to Show Cause (annexing Exhibits 1 – 7) (filed under seal);
3. Declaration of Joseph P. Guglielmo in Response to Order to Show Cause;
4. Plaintiff Consent to Appearance of Counsel and Participation in Attorneys' Fees Awarded by Court; and
5. Expert Declaration of Ellen Yaroshefsky (filed under seal).

Given the sensitive and confidential nature of the information in Items 1, 2 and 5 above, those documents have been filed under seal with the Clerk pursuant to the protective order entered in this action. A full set of the enclosed documents were served on Paul Whalen and Class Counsel and will be filed or served in any additional manner directed by this Court.

TUSA P.C.

Kindly contact the undersigned with any questions or requests.

Respectfully yours,
/s/
Joseph S. Tusa*

cc: Counsel of Record (By ECF Filing)

* also affiliated with Whalen & Tusa, P.C. whose shareholders voted to dissolve that firm on December 22, 2010.